IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 13670 of 2000

Between:

The Gram Panchayat of Timmayapalem rep by Sarpanch Jakka Venkateswarlu S/o Venkatappayya Timmayyapalem , Addanki Mandal ,
Prakasham District.

..... PETITIONER

AND

1 The District Collector (Panchayat Raj Wing), Ongole , Prakasam

District.
2 The District Panchayat Officer, Ongole , Prakasam District.
3 The Mandal Revenue Officer, Addanki , Prakasam Dist.
4 The Gram Panchayat Ramayapalem , Rep by Sarpanch
Addanki , Prakasam Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order directing the 1st respondent to consider the representation of the petitioner dt 21-9-98 regarding the allotment of assets to the G.P of the petitioner and 4th respondent while its bifurcation in pursuance of the orders of this Hon'ble court dt 20-11-98 in WP 28604/98.

Counsel for the Petitioner: MR.M.S.N.PRASAD

Counsel for the Respondents : GP FOR PANCHAYAT RAJ

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.13670 OF 2000

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ORDER:

The Gram Panchayat, Thimmayyapalem is the petitioner. It complains that District Collector, Prakasam District has not disposed of the representation made by the petitioner on 21.09.1998, in spite of the orders of this Court in W.P.No.28604 of 1998, dated 20.11.1998. Therefore, a writ of mandamus is sought directing the first respondent to pass appropriate orders regarding allotment of assets to the petitioner Gram Panchayat and the Gram Panchayat Ramayapalem, the fourth respondent.

The brief facts necessary for disposal of this case are as follows. Ramayapalem Gram Panchayat was constituted with two local areas/revenue villages, namely, Ramayapalem and Thimmayyapalem. The Government bifurcated Thimmayyapalem as a separate revenue village and the petitioner Gram Panchayat was duly constituted as per the notification of the first respondent dated 26.02.1997. In the said bifurcation, the petitioner Gram Panchayat was vested with the jurisdiction in respect of area comprised in Survey Nos.96 to 102, 112 to 127, 174 to 517, 519 to 521 and all other survey numbers in the erstwhile Ramayapalem jurisdiction (residuary area) remained with fourth respondent Gram Panchayat. It is the case of the petitioner that the division of jurisdiction and allotment of assets and liabilities between the residuary Gram Panchayat (fourth respondent) and the newly constituted Gram Panchayat (the petitioner) is not based on the population criteria. The petitioner also alleges that forest lands in Survey No.173 admeasuring Acs.541.25 of Thimmayyapalem village fall within the jurisdiction of petitioner Gram Panchayat was allotted to fourth respondent causing revenue loss. The petitioner therefore filed writ petition being W.P.No.28604 of 1998 before this Court challenging the proceedings of the first respondent dated 26.02.1997, whereby and whereunder the assets and liabilities were distributed between the two Gram Panchayats. While observing that this Court is not inclined to decide the merits of the case, the writ petition was disposed of on 20.11.1998 with a direction that the representation of the petitioner dated 21.09.1998 shall be considered and disposed

of by the District Collector, Prakasam District. It is the case of the petitioner that pursuant to the said order, the first respondent herein addressed a letter to third respondent requesting him to submit a report. In the meanwhile, it is alleged that auction was conducted for leasing out the right to quarry sand and the same was confirmed by the first respondent in favour of one Sri Ravi Sridhar at a bid amount of Rs.7,10,000/- (Rupees seven lakh ten thousand only). It is also alleged that the said amount will go to the fourth respondent, in which case, the petitioner suffers irreparable loss. Therefore, the present writ petition is filed.

Respondents have not filed any counter affidavit. Learned Counsel for petitioner Sri M.S.N.Prasad submits that the District Collector delayed the matter and did not take expeditious action in accordance with the orders of this Court in W.P.No.28604 of 1998. This is causing prejudice to the petitioner Gram Panchayat and therefore the action of the first respondent is arbitrary. **Per contra,** Sri Janaki Rami Reddy submits that the representation of the petitioner has already been disposed of by the District Collector. Further, he submits that even before the representation of the petitioner could be disposed of by conducting proper enquiry into the matter, the petitioner has approached this Court when auction was conducted for leasing out the right to quarry the sand and that the writ petition is not *bona fide.*

A perusal of the affidavit accompanying the writ petition would amply support the case of the respondents. Even according to the petitioner, the District Collector directed the Mandal Revenue Officer to submit a report. At that stage, when the auction was conducted and the Collector confirmed the sand quarry auction in favour of the third party, apprehending that the amount might be paid to the fourth respondent, the present writ petition is filed. Indeed in W.P.M.P.No.17407 of 2000 filed along with the writ petition, the petitioner prayed for a direction to the respondents not to utilise/use in any manner the said quarry lease amount pursuant to the orders of the first respondent dated 06.07.2000 confirming the auction. This would show that the petitioner has approached this Court with unclean hands and no discretion can be exercised in its favour.

The writ petition is devoid of merits and is accordingly dismissed with costs.

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(V.V.S.RAO,J)

05.10.2004.

pln

To

1. The District Collector (Panchayat Raj Wing), Ongole. Prakasam District.
2. The District Panchayat Officer, Ongole, Prakasam District.
3. The Mandal Revenue Officer, Addanki, Prakasam District.
4. 2 CCs to the G.P.for Panchayat Raj, High Court Buildings, Hyderabad (OUT).
5. 2 CD copies.